THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4006 of 2007

Dated:29.03.2007

Between:

Gadiyaram Gowrisankar and others.

... Petitioners

AND

The Mandal Revenue Officer and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4006 of 2007

ORDER:

The petitioners filed the instant Writ Petition assailing the notice dated 15.03.2006 issued by the first respondent herein as illegal and arbitrary. The petitioners also seek a consequential direction to the respondents not to evict them from the land admeasuring Acs.19.03 cents in R.S.No.39/2 situated at Kommanapalli Village of Thondangi Mandal in East Godavari District (hereafter called, the subject land).

It is the case of the petitioners that the mother of the first petitioner, Gadiyarapu Venkata Ramanamma, is the absolute owner of the land admeasuring Acs.25.00 in Survey No.39, which was gifted to her by her brothers, Earanki Suryanarayana and Earanki Papa Rao, under registered gift deed dated 12.12.1957, and that the first petitioner and his mother sold an extent of Acs.11.33 cents in favour of petitioners 2 to 8, who are in possession and enjoyment of the property after obtaining pattadar pass books (PPBs) and title deeds (TDs) from the revenue authorities. One Killari Venkata Ramana approached the Revenue Divisional Officer for subdivision of the land, on which, the Revenue Divisional Officer, Peddapuram, by letter dated 17.10.2006 instructed the first respondent to conduct survey. In the meanwhile, the Mandal Revenue Officer (MRO) issued the impugned notice directing the petitioners to handover possession of the subject land alleging that the said land was surrendered by Papa Rao under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Land Reforms Act'). The petitioners allege that

on their enquiry they came to know that Papa Rao, third respondent herein, filed a declaration under the Land Reforms Act also showing the land in Survey No.39 admeasuring Acs.25.00 in his holding, and he surrendered the land as excess agricultural land. The petitioners allege that when once the land was gifted to the first petitioner's mother, Papa Rao could not have declared the land in Survey No.39 in the declaration filed under the Land Reforms Act. The petitioners also contend that the acceptance of surrender of the land by the Land Reforms Tribunal is illegal and arbitrary.

At the stage of admission itself the MRO has filed a counter affidavit. The averments in brief are as follows. Papa Rao – the third respondent herein; filed a declaration vide LCC.No.1016/TNI/75 under the Land Reforms Act showing an extent of Acs.70.18 cents in his holding including the land admeasuring Acs.19.03 cents in Survey No.39. The brother of Papa Rao also filed another declaration showing Acs.26.20 cents. As Papa Rao was declared as surplus land holder, he surrendered the land under Section 10(3) of the Land Reforms Act as surplus. When the subdivision survey was conducted, the land surrendered by Papa Rao was given subdivision No.39/2, the land belonging to the mother of the first petitioner was given subdivision No.39/1, and the land belonging to the brother of Papa Rao was given subdivision No.39/3. The land in Survey Nos.39/2 and 39/3 were taken possession on 13.03.1992, and the same is earmarked for provision of house sites to landless poor persons. Gadiyarapu Venkata Ramanamma and her sons who claimed to be the owners of land in Survey No.39/1 occupied the land in Survey No.39/2, and therefore, the MRO issued the impugned notice calling upon the petitioners to vacate the Government land. The petitioners then filed this Writ Petition without submitting explanation, and therefore, the Writ Petition is not maintainable. All other allegations made by the petitioners are denied.

The petitioners have not filed any reply affidavit. Learned Counsel for the petitioners, however, submits that petitioners 2 to 8 purchased their respective extents of land in Survey No.39 from Gadiyarapu Venkata Ramanamma and the first petitioner, that they have not encroached upon the other land in Survey No.39, which was allegedly declared as surplus land and which was allegedly taken over possession by the MRO on 13.03.1992. He, however, does not dispute that the petitioners did not submit any explanation or

representation to that effect before the first respondent and that the petitioners approached this Court with a delay of about one year. Learned Assistant Government Pleader for Revenue (General-A) reiterated the submissions and contentions taken in the counter affidavit.

In the absence of any reply affidavit, the counter averments stand unrebutted. From the counter affidavit, it becomes clear that the land surrendered by the third respondent in the proceedings under the Land Reforms Act was shown in the subdivision as Survey No.39/2, and his brother's land as Survey No.39/3, which was already assigned to landless poor persons. The land in Survey No.39/2 surrendered by the third respondent has been earmarked as house sites and whereas the land in Survey No.39/1, which is claimed by Gadiyarapu Venkata Ramanamma has not been the subject matter of the surrender proceedings. It also reveals that the petitioners encroached upon the Government land in Survey No.39/2 (surrendered by the third respondent), and therefore, this Court does not find any infirmity in the impugned notice. Indeed, in the penultimate paragraph of the impugned notice, the MRO specifically says that the land in Survey No.39/2 admeasuring Acs.19.03 cents is to be vacated by the petitioners and handed over to the MRO, Thondangi. When subdivision was effected in respect of the land in Survey No.39 pursuant to the Land Ceiling Proceedings, curiously, the revenue documents like PPBs produced by the petitioners refer to the entire Survey No.39. Therefore, it is not possible to record any finding whether the petitioners have encroached upon the land in Survey No.39/2 surrendered by the third respondent. In this background, the petitioners may have to approach the MRO and submit their representation/explanation and seek necessary redressal by producing necessary documents. In this Writ Petition no relief can be granted.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

29.03.2007
vs